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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,469	04/08/2004	Matthias Mrosik	10191/3605	1079
26646 7590 01/31/2007 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER KIRKLAND III, FREDDIE	
			ART UNIT	PAPER NUMBER
			2855	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/31/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/821,469	Applicant(s) MROSIK ET AL.	
	Examiner Freddie Kirkland III	Art Unit 2855	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **FINAL OFFICE ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Seekircher et al. U.S. Patent 5,811,671.

With respect to claims 1 and 8, the Seekircher et al. reference teaches a method for testing a fuel metering system comprising: checking injector contacts by a control unit during an initialization phase prior to starting up the fuel metering system (col. 6 lines 9-25, voltages are applied to the injection valves by the control unit then a sensed magnetic field is read by the control unit to confirm that the injection valve is connected correctly); driving injectors by the control unit for testing (col. 4 lines 13-16, engine control unit being part of engine 1 generates the control signals for actuating the injection valves 2a and 2b); evaluating at least one of (a) current values and (b) voltage values to detect errors (col. 6 lines 9-25, magnetic fields, which is generated by current, are generated by the solenoids on the injection valves are used by the control unit to confirm a proper connection between a injection valve and control unit); and controlling a fuel metering by the control unit during operation, wherein only the control unit performs the checking, driving, evaluating, and controlling steps, wherein no other

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control unit performs the steps of checking, driving, evaluation, and controlling (the col. 4 lines 13-16, the engine control unit and testing control unit are being interpreted as being one control unit because the claim does not specify that the control unit being one processor, therefore in the normal engine operation, an engine control unit being part of engine 1 generates the control signals for actuating the injection valves 2a and 2b).

With respect to claim 2, the reference teaches carrying out a test once prior to startup, prior to a first startup (col. 6 lines 9-25, voltages are applied to the injection valves by the control unit then a sensed magnetic field is read by the control unit to confirm that the injection valve is connected correctly, this test is ran prior before every startup).

With respect to claim 6, the reference teaches detecting of errors includes a check for at least one of a short-circuit, an interruption and a polarity reversal of lines (col. 2 lines 45-52, testing of the electrical connection of the injection valves including whether the injection valves are connected correctly).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seekircher et al U.S. Patent 5,811,671 in view of Hemmerlein et al. 6,293,251 B1.

With respect to claim 3, the Seekircher et al. fails to teach carrying out a test when a speed variable is less than a threshold value.

Hemmerlein et al. teaches an apparatus and method for diagnosing erratic pressure sensor operation in a fuel system of an internal combustion engine comprising a reference speed calculation block 94 that is responsive to the fueling request value to determine a speed indicative of a desired engine speed. The reference speed is then provided to an engine speed control loop that produces a fuel command value based on the reference speed and the actual engine speed (col.5 lines 4-11).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was to have used the method taught by Hemmerlein et al. in the method of Seekircher et al. in order to detect faults in the fuel system.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seekircher et al U.S. Patent 5,811,671 in view of Pauli et al U.S. Patent 5,633,458.

With respect to claim 4, Seekircher fails to teach carrying out a test when a rail pressure variable is less than a threshold value.

Pauli et al. teaches an on board fuel delivery diagnostic system that records that pressure in the fuel system at the end of a injector actuation then this pressure is compared to with an acceptable pressure data stored in memory. If the pressure is within the range then the controller determines the injector is functioning properly.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the method taught by Pauli et al. in the method of Seekircher et al. in order to detect faults in the fuel system and determine if the injector is functioning properly.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seekircher et al U.S. Patent 5,811,671 in view of Weiland U.S. Patent 6,754,604 B2.

With respect to claim 5, Seekircher fails to teach carrying out a test when a voltage variable is greater than a threshold value.

Weiland teaches a method and apparatus for diagnosing fuel injectors that identifies sample voltage signals from fuel injectors then compares these signals with threshold values (col. 6 lines 41-47).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the method taught by Weiland in the method of Seekircher et al. in order to easily and conveniently determine the operation of the fuel injectors (col. 1 lines 47-48).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seekircher et al U.S. Patent 5,811,671 in view of Di Leo et al. U.S. Patent 6,085,142.

With respect to claim 7, Seekircher et al. fail to teach during a test, connecting the control unit to a diagnostic tester via which at least one of (a) the test is started and (b) results of the test are at least one of read-out and displayed.

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Di Leo et al. teaches a method for fuel a injection system where the control unit ECU also has a diagnostic socket PD enabling it to be connected to external processing devices (col. 4 lines 54-57).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the method taught by Di Leo et al in the method of Seekircher in order to make diagnosis of the fuel metering system easier.

### ***Response to Arguments***

Applicant's arguments filed 12/11/2006 have been fully considered but they are not persuasive.

As stated above in the rejection of claims 1 and 8, the engine control unit and testing control unit are being interpreted as being one control unit because the claim does not specify that the control unit being one processor. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the engine control device triggers the load circuits during testing and analyzes the response) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freddie Kirkland III whose telephone number is 571-272-2232. The examiner can normally be reached on Monday through Friday 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FKIII

1/26/2007



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